

HOUSE BILL No. 1998

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-1-2-12.5; IC 36-1.3; IC 36-8.5.

Synopsis: Prohibit property tax for police and fire service. Eliminates property taxes for police and fire services if the federal government makes fees and other charges for police and fire services deductible for federal income tax purposes. Allows a political subdivision to impose fees and other charges for police and fire services. Imposes an expenditure limit on local police and fire service expenditures. Transfers money from the state general fund to a state emergency reserve fund.

Effective: July 1, 1999.

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January 27, 1999, read first time and referred to Committee on Ways and Means.

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 1998

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-1-2-12.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 1999]: **Sec. 12.5. "Police and fire services" means an expenditure**
4 **or activity to which IC 36-8.5 applies.**

5 SECTION 2. IC 36-1.3 IS ADDED TO THE INDIANA CODE AS
6 A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
7 1999]:

8 **ARTICLE 1.3. BUDGETS**

9 **Chapter 1. Application**

10 **Sec. 1. This article applies only to expenditures for police and**
11 **fire services. However, this article applies to expenditures for**
12 **police and fire services only if IC 36-8.5 applies to the collection of**
13 **fees and other charges for police and fire services.**

14 **Sec. 2. This article applies to police and fire service budgets for**
15 **all budget years beginning after December 31, 1999.**

16 **Chapter 2. Expenditure Limitation**

17 **Sec. 1. This chapter applies only to:**

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(1) fees and other charges imposed under IC 36-8.5; and

(2) distributions under IC 36-8.5-3.

Sec. 2. As used in this chapter, "adjustment factor" refers to the adjustment factor determined under section 17 of this chapter.

Sec. 3. As used in this chapter, "appropriations" refers to the total capital or operating appropriations of a political subdivision for police and fire services. The term includes the amount needed to meet the obligations of an allocation district. The term does not include debt service expenditures, emergency expenditures, or expenditures from an exempted source.

Sec. 4. As used in this chapter, "base year" means:

(1) a political subdivision's first budget year beginning after December 31, 1998, if the term is used to compute the expenditure limit for a political subdivision that was initially established before January 1, 1999; or

(2) the first budget year in which a political subdivision operated for an entire budget year, if subdivision (1) does not apply.

Sec. 5. As used in this chapter, "base year per capita appropriations" refers to the base year per capita appropriations of a political subdivision, as determined under section 18 of this chapter.

Sec. 6. As used in this chapter, "estimated population" means the total number of individuals who are residents of a political subdivision or an allocation district, as determined under section 15 of this chapter.

Sec. 7. As used in this chapter, "expenditure limit" means the maximum amount of appropriations that a political subdivision or an allocation district may appropriate for a budget year, as determined under section 19 of this chapter. The term does not refer to actual appropriations or actual expenditures.

Sec. 8. As used in this chapter, "exempted source" means a source of revenue for police and fire services other than a source described in section 1 of this chapter.

Sec. 9. As used in this chapter, "fiscal emergency" means circumstances requiring an expenditure exceeding the expenditure limit, as determined under section 28 of this chapter.

Sec. 10. As used in this chapter, "inflation index" means the change in the general price level of goods and services, as determined under section 16 of this chapter.

Sec. 11. As used in this chapter, "revenues" means money received by a political subdivision or an allocation district from

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1 interest, a tax, a penalty, a grant, a state distribution, or any other
2 receipt.

3 Sec. 12. As used in this chapter, "security" means any bond,
4 note, warrant, or other evidence of indebtedness, whether or not
5 the bond, note, warrant, or other evidence of indebtedness
6 constitutes a debt of the political subdivision or allocation district
7 within the meaning of Article 13, Section 1 of the Constitution of
8 the State of Indiana.

9 Sec. 13. A political subdivision may not appropriate, allot, or
10 expend in a budget year more than an amount equal to the
11 expenditure limit for the political subdivision or as determined
12 under the latest computation made by the state board of tax
13 commissioners under section 14 of this chapter before the
14 beginning of the budget year.

15 Sec. 14. (a) Not later than six (6) months before the beginning of
16 a political subdivision's budget year, the state board of tax
17 commissioners shall make a preliminary estimate of each of the
18 computations required under sections 15 through 26 of this chapter
19 for the political subdivision.

20 (b) In order to:

21 (1) correct a clerical or computational error; or

22 (2) incorporate information that becomes available after the
23 preliminary estimate is computed under subsection (a);
24 the state board of tax commissioners may adjust a computation
25 under sections 15 through 26 of this chapter for a budget year at
26 any time before the first day of the budget year.

27 (c) Not later than five (5) business days after the state board of
28 tax commissioners computes an estimate under subsection (a) or
29 (b), the state board of tax commissioners shall distribute a copy of
30 the estimate for a political subdivision in a county to the political
31 subdivision and the county auditor for the county.

32 (d) If the total appropriations of a political subdivision will
33 exceed the latest expenditure limit computed under subsection (a)
34 or (b), the political subdivision or the state board of tax
35 commissioners shall adjust the appropriations to comply with
36 section 13 of this chapter.

37 Sec. 15. The state board of tax commissioners shall compute the
38 estimated population in the budget year for each political
39 subdivision. The estimated population shall be estimated for the
40 first day of the month preceding the budget year by six (6) months
41 using the latest available actual or estimated population data from
42 the Bureau of the Census of the United States Department of



1 Commerce.

2 **Sec. 16. (a) The state board of tax commissioners shall compute**
 3 **an inflation index for each political subdivision's:**

- 4 (1) base year; and
 5 (2) next budget year.

6 (b) The inflation index shall be estimated for the first day of the
 7 month preceding the budget year by six (6) months using the
 8 implicit price deflator for the gross domestic product, or its closest
 9 equivalent, which is available from the United States Bureau of
 10 Economic Analysis.

11 **Sec. 17. (a) The state board of tax commissioners shall compute**
 12 **the adjustment factor for each political subdivision's:**

- 13 (1) base year; and
 14 (2) next budget year.

15 (b) The adjustment factor for the base year is equal to the result
 16 in STEP THREE of the following formula:

17 **STEP ONE: Determine the estimated population for the base**
 18 **year.**

19 **STEP TWO: Determine the quotient of the inflation index for**
 20 **the base year divided by one hundred (100).**

21 **STEP THREE: Multiply the STEP ONE amount by the STEP**
 22 **TWO amount.**

23 (c) The adjustment factor for a budget year after the base year
 24 is equal to the result in STEP FOUR of the following formula:

25 **STEP ONE: Determine the estimated population for the**
 26 **budget year.**

27 **STEP TWO: Determine the quotient of:**

28 (A) the inflation index for the budget year minus the
 29 inflation index for the base year; divided by

30 (B) one hundred (100).

31 **STEP THREE: Determine the greater of zero (0) or the STEP**
 32 **TWO result.**

33 **STEP FOUR: Multiply the STEP ONE amount by the sum of**
 34 **one (1) plus the STEP THREE result.**

35 **Sec. 18. The state board of tax commissioners shall compute the**
 36 **base year per capita appropriations for each political subdivision.**
 37 **The base year per capita appropriations of a political subdivision**
 38 **is equal to the quotient of:**

39 (1) the total amount of appropriations actually expended by
 40 a political subdivision in the political subdivision's base year;
 41 divided by

42 (2) the adjustment factor for the base year.

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1 **Sec. 19. (a)** The state board of tax commissioners shall compute
 2 the expenditure limit for each political subdivision.

3 **(b)** The expenditure limit for a political subdivision in a year
 4 after the base year is the result determined under STEP TWO of
 5 the following formula:

6 **STEP ONE:** Determine the base year per capita
 7 appropriations of the political subdivision.

8 **STEP TWO:** Multiply the STEP ONE result by the
 9 adjustment factor for the political subdivision's budget year.

10 **(c)** The expenditure limit for a political subdivision that has not
 11 operated for at least one (1) full budget year is the total amount of
 12 appropriations approved by the state board of tax commissioners
 13 for that year.

14 **Sec. 20.** If the Bureau of Economic Analysis of the United States
 15 Department of Commerce, or its successor agency, changes the
 16 base year on which it calculates the implicit price deflator for the
 17 gross domestic product, the state board of tax commissioners shall
 18 adjust the implicit price deflator for the gross domestic product
 19 used in making the calculations under this chapter to compensate
 20 for the change in the base year.

21 **Sec. 21.** If a political subdivision transfers out or accepts the
 22 responsibility of a program or service to or from another unit of
 23 government, the expenditure limit and the base year per capita
 24 appropriations shall be decreased or increased correspondingly to
 25 reflect these changes.

26 **Sec. 22.** If a program or service administered by a political
 27 subdivision that is totally or partially funded by the federal
 28 government ceases to be funded by the federal government, the
 29 political subdivision may elect to fund the entire program or
 30 service, and the expenditure limitations shall be increased to reflect
 31 these changes.

32 **Sec. 23.** If a political subdivision transfers the funding source of
 33 a program or service from taxes to user charges or other exempted
 34 revenue sources as specified in this chapter, the expenditure limit
 35 shall be decreased to reflect these changes.

36 **Sec. 24.** If a political subdivision transfers programs or services
 37 that are funded by exempted sources to programs or services that
 38 are funded by money subject to this chapter, the expenditure
 39 limitation shall be increased to reflect these changes.

40 **Sec. 25.** If a political subdivision transfers revenues from
 41 sources exempted under this chapter to funds containing revenues
 42 from nonexempt sources, the revenues transferred shall be part of

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and subject to the expenditure limit of this chapter.

Sec. 26. If a political subdivision is initially created in a county after December 31, 1998, the expenditure limits of all political subdivisions shall be proportionally reduced so that the sum of the expenditure limits for all political subdivisions in the county is the same before and after the establishment of the new political subdivision. However, with the consent of the fiscal body of the county and each city and town in the county, the state board of tax commissioners may use a different formula for adjusting the expenditure limits of the political subdivisions in the county.

Sec. 27. With the consent of the fiscal body of each affected political subdivision, the state board of tax commissioners may lower the expenditure limit of one (1) or more political subdivisions and raise the expenditure limit of one (1) or more other political subdivisions by the same total amount.

Sec. 28. (a) The limits as provided in this chapter may be exceeded if:

- (1) a fiscal emergency is declared by at least a two-thirds (2/3) vote of the fiscal body of the political subdivision; and
- (2) the state board of tax commissioners approves the declaration of a fiscal emergency.

(b) A political subdivision may petition the state board of tax commissioners to approve a declaration of a fiscal emergency for the political subdivision. The petition must describe the fiscal emergency and indicate the source of revenues that will be used to meet the fiscal emergency. After giving at least ten (10) days notice to the political subdivision and the county auditor for the county containing the political subdivision and publishing at least one (1) notice under IC 5-3-1 in the county, the state board of tax commissioners shall conduct a hearing concerning the petition.

(c) After the hearing under subsection (b), the state board of tax commissioners shall approve a declaration of a fiscal emergency only if the state board of tax commissioners determines that:

- (1) an extraordinary occurrence requires immediate expenditures; or
- (2) a shortfall of revenues will result in default on the repayment of principal or interest on an indebtedness.

(d) Payment of expenses directly related to elimination of an ad valorem property tax system, including the costs of refinancing bonds or leases and settling disputes related to bonds or leases, shall be treated as a fiscal emergency.

Sec. 29. Funding for fiscal emergencies may not be included in



the appropriations base for computing the expenditure limit for appropriations in subsequent years. Fiscal emergency appropriations shall remain separate from appropriations subject to limits imposed by this chapter and shall be assigned expiration dates.

Sec. 30. If upon audit or examination of the results of an audit of a political subdivision, the state board of accounts determines that:

- (1) funds have been improperly accounted or budgeted for in order to avoid the limitations imposed by this chapter;
- (2) funds have been improperly exempted from the limitations as provided in this chapter;
- (3) general governmental functions have been improperly financed by user or service charges; or
- (4) the limitations imposed by this chapter have been exceeded;

the state board of accounts shall notify the state board of tax commissioners and the political subdivision through the appropriate officer or officers of necessary corrective action. If after a reasonable time the political subdivision has not corrected the deficiency, the state board of accounts shall refer the matter to the attorney general.

Chapter 3. Adoption of Budget

Sec. 1. This chapter applies only if IC 36-8.5 applies.

Sec. 2. The definitions in IC 36-1.3-2 apply throughout this chapter.

Sec. 3. Not later than July 1 of each year, the state board of tax commissioners shall send a certified statement to each county auditor:

- (1) estimating the expenditure limit for each political subdivision in the county; and
- (2) computing the total amount of money that is available for distribution under IC 36-8.5 to the political subdivisions in the county for the last six (6) months of the current year and the next budget year.

Sec. 4. (a) Before August 2 of each year, the county auditor shall send a certified statement, under the seal of the board of county commissioners, to the fiscal officer of each political subdivision of the county and the state board of tax commissioners. The statement shall contain the expenditure limit for the political subdivision and an estimate of the revenues to be distributed to the political subdivision during:



(1) the last six (6) months of the current budget year; and

(2) the next budget year.

(b) The fiscal officer of each political subdivision shall present the county auditor's statement to the proper officers of the political subdivision.

Sec. 5. When formulating an annual budget estimate, the proper officers of a political subdivision shall prepare an estimate of the amount of revenue that the political subdivision will receive from the state for and during the year for which the budget is being formulated. These estimated revenues shall be shown in the budget estimate and shall be considered in calculating any tax that will be imposed in the ensuing budget year.

Sec. 6. (a) The proper officers of a political subdivision shall formulate the political subdivision's estimated budget on the form prescribed by the state board of accounts.

(b) The political subdivision shall give notice to taxpayers of the estimated budget. In the notice, the political subdivision shall also state the time and place at which a public hearing will be held on these items. The notice shall be published two (2) times in accordance with IC 5-3-1, with the first publication at least ten (10) days before the date fixed for the public hearing.

(c) The auditor of each county shall estimate the amount necessary to meet the cost of each allocation district in the county that, before January 1, 2000, was payable from the levy of property taxes for the ensuing budget year and publish with the political subdivision's budget the estimated amount for each allocation district. The amount, if approved by the state board of tax commissioners, shall be treated as the distribution of the allocation district.

(d) Except as provided for the adoption of a supplemental budget, the officers of a political subdivision may not fix a budget that exceeds the amount published by the political subdivision. The portion of a budget that exceeds the published amount is void.

Sec. 7. (a) The officers of political subdivisions shall meet each year to fix the budget of their respective subdivisions for the ensuing budget year as follows:

(1) The fiscal body of a county, on any date after August 15 but before September 15, with notice given by the county auditor.

(2) The fiscal body of a consolidated city and county, not later than the last meeting of the fiscal body in September.

(3) The fiscal body of a second class city, not later than



September 30.

(4) The fiscal body of a third class city, not later than the last Monday in August.

(5) The fiscal body of a town, not later than the last Monday in August.

(6) The fiscal body of a township, after July 31 and not later than the last Tuesday in August, with notice given by the township executive.

(7) The proper officers of all other political subdivisions, at the time prescribed by statute.

Except in a consolidated city and county and in a second class city, the public hearing required by section 6 of this chapter must be completed at least seven (7) days before the proper officers of the political subdivision meet to fix the budget. In a consolidated city and county and in a second class city, the public hearing by any committee or by the entire fiscal body may be held at any time after introduction of the budget.

(b) Each year at least two (2) days before the first meeting of the county board of tax adjustment, a political subdivision shall file with the county auditor two (2) copies of the budget adopted by the political subdivision for the ensuing budget year. Each year the county auditor shall present these items to the county board of tax adjustment at the board's first meeting.

(c) In a consolidated city and county and in a second class city, the clerk of the fiscal body shall, notwithstanding subsection (b), file the adopted budget and tax ordinances with the county board of tax adjustment within two (2) days after the ordinances are signed by the executive or within two (2) days after action is taken by the fiscal body to override a veto of the ordinances, whichever is later.

Sec. 8. (a) The county board of tax adjustment shall review the budget of each political subdivision. The board shall revise or reduce, but not increase, any budget in order to limit the budget to the:

(1) expenditure limit under IC 36-1.3-2 or any other limitation on expenditures set by statute; and

(2) amount of revenue to be available in the ensuing budget year.

(b) The county board of tax adjustment shall make a revision or reduction in a political subdivision's budget only with respect to the total amounts budgeted for each office or department within each of the major budget classifications prescribed by the state



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1 board of accounts.

2 (c) When the county board of tax adjustment makes a revision
3 or reduction in a budget it shall file with the county auditor a
4 written order that indicates the action taken. If the board reduces
5 the budget, the county board shall also indicate in the order the
6 reason for the reduction. The chairman of the county board shall
7 sign the order.

8 Sec. 9. If the boundaries of a political subdivision cross one (1)
9 or more county lines, the budget fixed by the political subdivision
10 shall be filed with the county auditor of each affected county in the
11 manner prescribed in section 7 of this chapter. The board of tax
12 adjustment of the county that contains the largest portion of the
13 general money receivable by the political subdivision has
14 jurisdiction over the budget to the same extent as if the property
15 taxable by the political subdivision were wholly within the county.
16 The secretary of the county board of tax adjustment shall notify
17 the county auditor of each affected county of the action of the
18 board. Appeals from actions of the county board of tax adjustment
19 may be initiated in any affected county.

20 Sec. 10. (a) If the county board of tax adjustment determines
21 that a fiscal emergency exists, the county board shall file its written
22 recommendations in duplicate with the county auditor. The county
23 board shall include with its recommendations any information the
24 county board considers relevant to the matter.

25 (b) The county auditor shall forward one (1) copy of the county
26 board's recommendations to the state board of tax commissioners
27 and shall retain the other copy in the county auditor's office. The
28 state board of tax commissioners shall, in the manner prescribed
29 in section 18 of this chapter, review the budgets of each political
30 subdivision.

31 Sec. 11. (a) The county board of tax adjustment shall complete
32 the duties assigned to it under this chapter before October 2 of
33 each year, except that in a consolidated city and county and in a
34 county containing a second class city, the duties of the board are
35 not required to be completed until November 1 of each year.

36 (b) If the county board of tax adjustment fails to complete the
37 duties assigned to it within the time prescribed in this section, the
38 county auditor shall carry out the duties of the county board.

39 (c) When the county auditor acts under subsection (b), the
40 county auditor shall send a notice of actions taken by the county
41 auditor to each political subdivision of the county. The county
42 auditor shall send the notices within five (5) days after publication



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1 of the notice required by section 14 of this chapter.

2 (d) When the county auditor acts under subsection (b), the
3 action shall be treated as if it were the action of the county board
4 of tax adjustment.

5 **Sec. 12.** The county auditor shall certify the budget of a political
6 subdivision in the county to the state board of tax commissioners
7 if the budget, as approved or modified by the county board of tax
8 adjustment, exceeds the:

9 (1) expenditure limit under IC 36-1.3-2 or any other limitation
10 on expenditures set by statute; or

11 (2) amount of revenue to be available in the ensuing budget
12 year.

13 **Sec. 13.** The budget of a political subdivision, as approved or
14 modified by the county board of tax adjustment, is final unless:

15 (1) action is taken by the county auditor in the manner
16 provided under section 11 of this chapter;

17 (2) the action of the county board is subject to review by the
18 state board of tax commissioners under section 10 or 12 of
19 this chapter; or

20 (3) an appeal to the state board of tax commissioners is
21 initiated with respect to the budget.

22 **Sec. 14.** When the budgets are approved or modified by the
23 county board of tax adjustment, the county auditor shall within
24 fifteen (15) days prepare a notice of proposed changes in tax rates
25 to be charged in the ensuing budget year in each taxing district.
26 The notice must also inform the taxpayers of the manner in which
27 they may initiate an appeal of the county board's action. The
28 county auditor shall post the notice at the county courthouse and
29 publish it in two (2) newspapers that represent different political
30 parties and that have a general circulation in the county.

31 **Sec. 15.** Ten (10) or more taxpayers may initiate an appeal from
32 the county board of tax adjustment's action on a political
33 subdivision's budget by filing a statement of their objections with
34 the county auditor. The statement must be filed within ten (10)
35 days after the publication of the notice required by section 14 of
36 this chapter. The statement shall specifically identify the provisions
37 of the budget to which the taxpayers object. The county auditor
38 shall forward the statement, with the budget, to the state board of
39 tax commissioners.

40 **Sec. 16.** The county auditor shall initiate an appeal to the state
41 board of tax commissioners if the county board of tax adjustment
42 reduces a poor relief tax rate below the rate necessary to meet the

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1 estimated cost of poor relief.

2 **Sec. 17. A political subdivision may appeal to the state board of**
 3 **tax commissioners for an increase in its budget as fixed by the**
 4 **county board of tax adjustment or the county auditor. To initiate**
 5 **the appeal, the political subdivision must file a statement with the**
 6 **board within ten (10) days after publication of the notice required**
 7 **by section 14 of this chapter. The legislative body of the political**
 8 **subdivision must authorize the filing of the statement by adopting**
 9 **a resolution. The resolution must be attached to the statement of**
 10 **objections, and the statement must be signed by the following**
 11 **officers:**

12 (1) In the case of counties, by the board of county
 13 commissioners and by the president of the county council.

14 (2) In the case of all other political subdivisions, by the highest
 15 executive officer and by the presiding officer of the legislative
 16 body.

17 **Sec. 18. (a) Subject to the limitations and requirements**
 18 **prescribed in this section, the state board of tax commissioners**
 19 **may revise, reduce, or increase a political subdivision's budget that**
 20 **the board reviews under section 10 or 12 of this chapter.**

21 (b) Subject to the limitations and requirements prescribed in
 22 this section, the state board of tax commissioners may review,
 23 revise, reduce, or increase the budget of any political subdivision
 24 whose budget is the subject of an appeal initiated under this
 25 chapter.

26 (c) Before the state board of tax commissioners reviews, revises,
 27 reduces, or increases a political subdivision's budget under this
 28 section, the board must hold a public hearing on the budget. The
 29 board shall hold the hearing in the county in which the political
 30 subdivision is located. The board may consider the budgets of
 31 several political subdivisions at the same public hearing. At least
 32 five (5) days before the date fixed for a public hearing, the board
 33 shall give notice of the time and place of the hearing and of the
 34 budgets to be considered at the hearing. The board shall publish
 35 the notice in two (2) newspapers of general circulation published
 36 in the county. However, if only one (1) newspaper of general
 37 circulation is published in the county, the board shall publish the
 38 notice in that newspaper.

39 (d) The state board of tax commissioners may not increase a
 40 political subdivision's budget to an amount that exceeds the
 41 amount originally fixed by the political subdivision. The state
 42 board of tax commissioners shall give the political subdivision



1 written notification specifying any revision, reduction, or increase
 2 that the state board of tax commissioners proposes. The political
 3 subdivision has one (1) week from the date the political subdivision
 4 receives the notice to provide a written response to the state board
 5 of tax commissioners' Indianapolis office specifying how to make
 6 the required reductions in the amount budgeted for each office or
 7 department. The state board of tax commissioners shall make
 8 reductions as specified in the political subdivision's response if the
 9 response is provided as required by this subsection and sufficiently
 10 specifies all necessary reductions. The state board of tax
 11 commissioners may make a revision, reduction, or increase in a
 12 political subdivision's budget only in the total amounts budgeted
 13 for each office or department within each of the major budget
 14 classifications prescribed by the state board of accounts.

15 (e) The state board of tax commissioners may not approve a levy
 16 for lease payments by a city, town, county, or fire protection
 17 district if the lease payments are payable to a building corporation
 18 for use by the building corporation for debt service on bonds and
 19 if:

- 20 (1) no bonds of the building corporation are outstanding; or
- 21 (2) the building corporation has enough legally available
- 22 funds on hand to redeem all outstanding bonds payable from
- 23 the particular lease rental levy requested.

24 (f) The action of the state board of tax commissioners on a
 25 budget is final. The board shall certify its action to:

- 26 (1) the county auditor; and
- 27 (2) the political subdivision, if the state board acts under an
- 28 appeal initiated by the political subdivision.

29 (g) The state board of tax commissioners shall complete the
 30 duties assigned to it under this section not later than January 15 of
 31 each year.

32 **Sec. 19. (a)** A political subdivision that in any year adopts a
 33 proposal to establish a cumulative fund or sinking fund under
 34 IC 36-8-14 must submit the proposal to the state board of tax
 35 commissioners before August 2 of that year.

36 (b) If a proposal described in subsection (a) is not submitted to
 37 the state board of tax commissioners before August 2 of a year, the
 38 political subdivision may not expend money from the cumulative
 39 fund or sinking fund in the ensuing year.

40 **Sec. 20.** The state board of tax commissioners may at any time
 41 increase the budget of a political subdivision for the following
 42 reasons:



(1) To pay the principal or interest upon a funding, refunding, or judgment funding obligation of a political subdivision.

(2) To pay the interest or principal upon an outstanding obligation of the political subdivision.

(3) To pay a judgment rendered against the political subdivision.

Sec. 21. (a) This section applies:

(1) to each governing body of a political subdivision that is not comprised of a majority of officials who are elected to serve on the governing body; and

(2) if the proposed budget for the political subdivision for the ensuing calendar year is more than five percent (5%) greater than the budget for the political subdivision for the current calendar year.

(b) If:

(1) the boundaries of the political subdivision are entirely contained within a city or town; or

(2) the boundaries of the political subdivision are not entirely contained within a city or town but the political subdivision was originally established by the city or town;

the governing body shall submit its proposed budget to the city or town fiscal body. The proposed budget and levy shall be submitted at least fourteen (14) days before the city or town fiscal body is required to hold budget approval hearings under this chapter.

(c) If subsection (b) does not apply, the governing body of the political subdivision shall submit its proposed budget to the county fiscal body in the county where the taxing unit has the largest share of its total area. The proposed budget shall be submitted at least fourteen (14) days before the county fiscal body is required to hold budget approval hearings under this chapter.

(d) The fiscal body of the city, town, or county (whichever applies) shall review each budget and adopt a final budget for the political subdivision. The fiscal body may reduce or modify but not increase the proposed budget. However, the fiscal body may not reduce the proposed tax levy to an amount that is less than the expenditure limit under IC 36-1.3-2.

Sec. 22. (a) Except as provided in subsection (b), a political subdivision may not expend any funds that it has received from the state and that it is required to include in its budget estimate unless the funds have been:

(1) included in a budget estimate by the political subdivision; and



(2) appropriated by the proper officers of the political subdivision in the amounts and for the specific purposes for which they may be used.

(b) In the event of a casualty, an accident, or an extraordinary emergency, the proper officers of a political subdivision may use state funds to make an additional appropriation under IC 36-1.3-4-1.

Chapter 4. Supplemental Budget; Miscellaneous Provisions

Sec. 1. If the proper officers of a political subdivision desire to appropriate more money for a particular year than the amount prescribed in the budget for that year as finally determined under this article, the officers must give notice of their proposed additional appropriation. The notice shall state the time and place at which a public hearing will be held on the proposal. The notice shall be given once in accordance with IC 5-3-1-2(b).

Sec. 2. A political subdivision must report an additional appropriation to the state board of tax commissioners.

Sec. 3. A political subdivision may make an additional appropriation without approval of the state board of tax commissioners if the additional appropriation is made from gifts or federal funds. However, the fiscal officer of the political subdivision shall report the additional appropriation to the state board of tax commissioners.

Sec. 4. After a public hearing, the proper officers of the political subdivision shall file a certified copy of their final proposal and any other relevant information to the state board of tax commissioners.

Sec. 5. (a) When the state board of tax commissioners receives a certified copy of a proposal for an additional appropriation under section 4 of this chapter, the board shall determine whether sufficient funds are available or will be available for the proposal. The determination shall be made in writing and sent to the political subdivision not more than fifteen (15) days after the board receives the proposal.

(b) In making the determination under subsection (a), the board shall limit the amount of the additional appropriation to revenues available, or to be made available, that have not been previously appropriated.

(c) If the state board of tax commissioners disapproves an additional appropriation under subsection (a), the state board of tax commissioners shall specify the reason for its disapproval on the determination sent to the political subdivision.

(d) A political subdivision may request a reconsideration of a



determination of the state board of tax commissioners under this section by filing a written request for reconsideration. A request for reconsideration must:

(1) be filed with the state board of tax commissioners within fifteen (15) days after receipt of the determination by the political subdivision; and

(2) state with reasonable specificity the reason for the request.

The state board of tax commissioners must act on a request for reconsideration within fifteen (15) days after receiving the request.

Sec. 6. (a) The proper officers of a political subdivision may transfer money from one (1) major budget classification to another within a department or office if:

(1) the officers determine that the transfer is necessary;

(2) the transfer does not require the expenditure of more money than the total amount set out in the budget as finally determined under this article;

(3) the transfer is made at a regular public meeting and by proper ordinance or resolution; and

(4) the transfer is certified to the county auditor.

(b) A transfer may be made under this section without notice and without the approval of the state board of tax commissioners.

Sec. 7. The appropriating body of a political subdivision may appropriate funds received from an insurance company if:

(1) the funds are received as a result of damage to property of the political subdivision; and

(2) the funds are appropriated for the purpose of repairing or replacing the damaged property.

However, this section applies only if the funds are in fact expended to repair or replace the property within the twelve (12) month period after the funds are received.

Sec. 8. Notwithstanding the other provisions of this chapter, the proper officer or officers of a political subdivision may:

(1) make an appropriation with respect to a contract for the discovery of omitted property if the contract provides that the payment for the services performed is to be made from taxes or penalties collected on the discovered property;

(2) reappropriate money recovered from erroneous or excessive disbursements if the error and recovery are made within the current budget year; or

(3) refund, without appropriation, money erroneously received.

Sec. 9. (a) If the proper officers of a political subdivision make



1 an appropriation for an item that exceeds the amount they are
 2 permitted to appropriate under this chapter, the officers commit
 3 malfeasance in office and are liable to the political subdivision in
 4 an amount equal to the sum of one hundred twenty-five percent
 5 (125%) of the excess appropriated and court costs.

6 (b) Upon the relation of a taxpayer who owns property that is
 7 located in the political subdivision, the appropriate prosecuting
 8 attorney shall initiate an action in the name of the state to recover
 9 the amount for which the proper officers of the political
 10 subdivision are liable under this section.

11 Sec. 10. Except as otherwise provided in this chapter, the proper
 12 officers of a political subdivision shall appropriate funds in a
 13 manner that the expenditures for a year do not exceed the budget
 14 for that year as finally determined under this article.

15 Sec. 11. A unit may appropriate money to repay an obligation
 16 of an allocation district.

17 Chapter 5. State Emergency Reserve Fund

18 Sec. 1. (a) The state emergency reserve fund is established. The
 19 budget agency shall administer the fund. Money in the fund at the
 20 end of a state fiscal year does not revert to the state general fund.

21 (b) An account in a state emergency reserve fund is established
 22 for each political subdivision.

23 (c) During each budget year, the political subdivision shall
 24 without an appropriation transfer to the state for deposit in the
 25 state emergency reserve fund all money that is received by the
 26 political subdivision under IC 36-8.5 in excess of the lesser of the:

- 27 (1) expenditure limit; or
- 28 (2) budget;

29 of the political subdivision.

30 (d) A political subdivision may appropriate other money for
 31 deposit in the emergency reserve fund.

32 Sec. 2. Deposits in an account of the emergency reserve fund
 33 shall be made at the end of each quarter based on projections of
 34 general money and the expenditure limit. A political subdivision
 35 may transfer money out of the emergency reserve fund on a
 36 quarterly basis to reflect a change in the projections of general
 37 money or the expenditure limit.

38 Sec. 3. A political subdivision may receive money from the
 39 political subdivision's account in the state emergency reserve fund
 40 only to meet a fiscal emergency, as determined and approved
 41 under IC 36-1.3-2.

42 Sec. 4. The political subdivision's state emergency reserve fund



1 account balance may not exceed ten percent (10%) of the money
 2 budgeted in the latest budget adopted by the political subdivision
 3 for police and fire services. Any balance in excess of ten percent
 4 (10%) shall be:

5 (1) transferred to the general fund of the political subdivision;
 6 and

7 (2) treated as an exempted source (as defined in
 8 IC 36-1.3-2-8).

9 Chapter 6. Bonding Limit

10 Sec. 1. As used in this chapter, "average total revenue" means
 11 the result determined under sections 2 through 5 of this chapter.

12 Sec. 2. Except as provided in sections 4 and 5 of this chapter, the
 13 average total revenue of a political subdivision is equal to the result
 14 determined under STEP THREE of the following formula:

15 STEP ONE: Determine, for each of the three (3) budget years
 16 immediately preceding the budget year in which the political
 17 subdivision will incur a debt, the total receipts:

18 (A) received by a political subdivision, including
 19 distributions from the state but excluding the proceeds
 20 from loans, the sale of property, the sale of bonds, or the
 21 issuance of other debt; and

22 (B) available to pay the expenditures of the political
 23 subdivision, including repayment of principal and interest
 24 on debt, for police and fire services.

25 STEP TWO: Determine the sum of the amounts determined
 26 under STEP ONE.

27 STEP THREE: Divide the amount determined under STEP
 28 TWO by three (3).

29 Sec. 3. Funds dedicated to a particular purpose may be included
 30 in the computation of average total revenue only to the extent that
 31 the funds are or may be pledged to repay any part of the debt of a
 32 political subdivision.

33 Sec. 4. The state board of tax commissioners shall compute an
 34 average total revenue for a political or municipal subdivision that
 35 may issue debt less than three (3) budget years after the political
 36 subdivision is established based on an estimate of the receipts that
 37 the political subdivision will receive in the first full budget years
 38 after the debt is incurred.

39 Sec. 5. A political subdivision may include in the computation of
 40 average total revenue an amount that is:

41 (1) equal to an estimate of what the political subdivision will
 42 receive from a tax or fee that was not collected in any of the



three (3) budget years preceding the budget year in which the political subdivision incurs a debt but is pledged to repay a debt; and

(2) approved by the state board of tax commissioners.

Sec. 6. A political subdivision may not become indebted in any manner or for the purpose of police and fire services to an amount that, in the aggregate, would result in payments of principal and interest in any year over the term of all debt that exceeds twenty percent (20%) of the average total revenues of the political subdivision previous to incurring the indebtedness.

Sec. 7. Subject to sections 8 and 9 of this chapter, all bonds or obligations of a political subdivision in excess of the amount determined under section 6 of this chapter are void.

Sec. 8. In time of war, foreign invasion, or other great public calamity, on petition of a majority of the property owners in number and value within the limits of such corporation, the public authorities may incur obligations necessary for the public protection and defense to an amount as may be requested in the petition.

Sec. 9. This chapter does not release or extinguish the debt of any political subdivision that has debt on January 1, 2000, exceeding the maximum debt limit allowed under section 6 of this chapter. However, the political subdivision may not incur any additional debt that will increase the total debt of the political subdivision until the political subdivision is in compliance with section 6 of this chapter.

Chapter 7. Repayment of Bonds; Lease Agreements

Sec. 1. This chapter applies to any bond or lease agreement that:

(1) was issued or entered into before July 1, 2000, and for which property tax levies were pledged to make payments coming due after June 30, 2000; and

(2) is not by the terms of the bonds or lease agreement repayable solely from a specific source of revenue other than property taxes.

Sec. 2. The holder of an obligation may file an action in a court with jurisdiction in the county where the principal office of the political subdivision is located to mandate a political subdivision to pay any obligation that is in default.

Sec. 3. An order under section 2 of this chapter may order the political subdivision to pay an obligation that is in default before making other expenditures from any funds available to the political subdivision, except funds held in trust or received on condition that



the funds be used only for a particular purpose that is inconsistent with the repayment of the obligation.

Sec. 4. An order under section 2 of this chapter may require the state to make payments of distributions to which a political subdivision would otherwise be entitled to the holders of an obligation that is in default. A payment made under this section to satisfy an obligation of a political subdivision reduces the amount of the distribution the state is obligated to pay to the political subdivision.

Chapter 8. Replacement of Property Tax Levies in Allocation Areas

Sec. 1. (a) This section applies to allocation areas established under the following statutes only to the extent that the elimination of the property tax levies for police and fire services adversely affects the holders of bonds or other contractual obligations that became payable from allocated tax proceeds in the allocation area before July 1, 2000, in a way that creates a reasonable expectation that the bonds or other contractual obligations will not be paid when due:

IC 8-22-3.5-9
 IC 36-7-14-30
 IC 36-7-14-32
 IC 36-7-14-39
 IC 36-7-14-41
 IC 36-7-14-43
 IC 36-7-14.5-12.5
 IC 36-7-15.1-20
 IC 36-7-15.1-22
 IC 36-7-15.1-26
 IC 36-7-15.1-29
 IC 36-7-15.1-30
 IC 36-7-30-25.

(b) The state board of tax commissioners shall determine the amount by which the allocated property tax proceeds in each allocation area located within the boundaries of a political subdivision were reduced by the elimination of the property tax levies for police and fire services under IC 36-8.5-2. The state board of tax commissioners shall certify the amounts determined under this subsection to the auditor of state.

(c) An allocation area that is located within the boundaries of a political subdivision is eligible for a distribution of money from the state general fund. The distribution is equal to the lesser of the



1 amount certified by the state board of commissioners under
 2 subsection (b) or the amount of money necessary to pay the amount
 3 due to the holders of the bond or other contractual obligations.

4 (d) Amounts distributable to an allocation area under
 5 subsection (b) shall be distributed to the county auditor in two (2)
 6 installments on May 10 and November 10 of each year.

7 Sec. 2. (a) An economic development district that is located in
 8 one (1) or more taxing districts in a county qualifies the county and
 9 the taxpayers located in the taxing districts for additional
 10 distributions and credits from the state general fund under this
 11 section if the following requirements are met:

12 (1) The economic development district was established under
 13 IC 6-1.1-39.

14 (2) The economic development district was established before
 15 January 1, 1988.

16 (3) The additional distributions and credits for the economic
 17 development district were approved by the department of
 18 commerce before January 1, 1988.

19 (b) The amount of the additional distributions and credits is the
 20 amount determined under the following formula:

21 STEP ONE: Determine the amount of additional distributions
 22 and credits actually issued under IC 6-1.1-21-5.5 for property
 23 taxes due and payable in the earlier of 2000 or the first
 24 calendar year to which this article applies.

25 STEP TWO: Determine the amount of additional
 26 distributions and credits that would have been issued under
 27 IC 6-1.1-21-5.5 for property taxes due and payable in the
 28 earlier of 2000 or the first calendar year to which this article
 29 applies if the property tax levies for police and fire services
 30 had not been eliminated under IC 36-8.5-2.

31 STEP THREE: Subtract the STEP ONE amount from the
 32 STEP TWO amount.

33 (c) The credit for property tax replacement under IC 6-1.1-21-5,
 34 an additional credit under IC 6-1.1-39-6(a), and the additional
 35 credit under subsection (a) shall be computed on an aggregate
 36 basis for all taxpayers in the economic development district. The
 37 credit for property tax replacement under IC 6-1.1-21-5, an
 38 additional credit under IC 6-1.1-39-6(a), and the additional credit
 39 under subsection (a) shall be combined on the tax statements sent
 40 to each taxpayer.

41 Chapter 9. Review of Bonds and Leases

42 Sec. 1. This chapter applies only:



- (1) to bonds or leases for police and fire services; and
 (2) if IC 36-8.5 applies.

Sec. 2. Before a political subdivision may incur bonded indebtedness or enter into a lease with an original term of at least five (5) years, the political subdivision must request and obtain approval from the state board of tax commissioners to incur the bonded indebtedness or execute the lease.

Sec. 3. The state board of tax commissioners shall make a decision within three (3) months after the date it receives a request for approval under section 2 of this chapter. However, the state board of tax commissioners may extend the three (3) month period by an additional three (3) months if, at least ten (10) days before the end of the original three (3) month period, the board sends notice of the extension to the executive officer of the political subdivision.

Sec. 4. A political subdivision does not need approval under section 2 of this chapter to obtain temporary loans made in anticipation of and to be paid from current revenues of the political subdivision receivable and in the course of collection for the fiscal year in which the loans are made.

SECTION 3. IC 36-8.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]:

ARTICLE 8.5. POLICE AND FIRE USER FEES

Chapter 1. Application

Sec. 1. This article applies only after the calendar year for which the governor certifies that the Internal Revenue Code has been amended to make rates and charges paid under this article deductible for federal income tax purposes to the same extent as property taxes are deductible under Section 164 of the Internal Revenue Code. The governor shall file the certification under this section with the secretary of state and distribute a copy of the certification to each county auditor, the executive director of the legislative services agency, and the state board of tax commissioners.

Sec. 2. This article applies to all units and to fire protection districts.

Sec. 3. This article applies to an expenditure to establish, maintain, operate, provide facilities or equipment for, contract for, finance, or repay a judgment or other obligation related to any of the following:

- (1) A police and law enforcement system to preserve public



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1 peace and order.

2 (2) A firefighting and fire prevention system.

3 (3) Emergency ambulance services (as defined in
4 IC 16-18-2-107), except as part of a levy for a county hospital
5 under IC 16-22 or a municipal hospital under IC 16-23.

6 (4) Emergency medical services (as defined in
7 IC 16-18-2-110), except as part of a levy for a county hospital
8 under IC 16-22 or a municipal hospital under IC 16-23.

9 (5) Emergency action (as defined in IC 13-11-2-65).

10 Sec. 4. The activities to which this article applies include the
11 following:

12 (1) A communications system (as defined in IC 36-8-15-3) or
13 an enhanced emergency telephone system (as defined in
14 IC 36-8-16-2).

15 (2) Pension payments for any of the following:

16 (A) A member of the fire department (as defined in
17 IC 36-8-1-8) or any other employee of a fire department.

18 (B) A member of the police department (as defined in
19 IC 36-8-1-9), a police chief hired under a waiver under
20 IC 36-8-4-6.5, or any other employee hired by a police
21 department.

22 (C) A county sheriff or any other member of the office of
23 the county sheriff.

24 (D) Other personnel employed to provide a service
25 described in section 3 of this chapter.

26 (3) Operation of the following:

27 (A) A county jail.

28 (B) A juvenile detention center.

29 Sec. 5. This article does not apply to expenditures related to the
30 following:

31 (1) A court.

32 (2) A probation department of a court.

33 (3) Confinement, supervision, community correction services,
34 or other correctional services for a person who has been:

35 (A) diverted before a final hearing or trial under an
36 agreement that:

37 (i) is between the county prosecutor and the person or
38 the person's custodian, guardian, or parent; and

39 (ii) provides for confinement, supervision, community
40 correction services, or other correctional services instead
41 of a final action described in clause (B) or (C);

42 (B) convicted of a crime; or



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(C) adjudicated as a delinquent child or a child in need of services in a facility; except operation of a county jail or juvenile detention center.

Chapter 2. Elimination of Property Tax Levies; Repayment of Prior Debt

Sec. 1. A political subdivision may not impose an ad valorem property tax levy for police and fire services.

Sec. 2. This article does prohibit the consolidation of services to which this article applies and other services payable from a property tax levy. However, the governing body delivering the consolidated services shall allocate the cost payable from property taxes based on the relative benefit of the consolidated services to police and fire services and other purposes.

Sec. 3. Section 1 of this chapter does not release or extinguish a debt of a political subdivision that was incurred before January 1, 2001. However, to the extent permitted under the Constitution of the United States and the Constitution of the State of Indiana, a law entitling a holder of an obligation to enforce a right to repayment from property tax levies does not apply after December 31, 2000, to a holder of an obligation that was created before January 1, 2001, but was incurred to finance an activity to which this article applies.

Sec. 4. If an agreement with a political subdivision entered into before January 1, 2001, or a judgment entered against a political subdivision before January 1, 2001, requires the political subdivision to make payments after December 31, 2000, from property tax levies that are prohibited by section 1 of this chapter, the holders of the obligations are entitled to payment from all other sources of receipts that are available to the political subdivision after December 31, 2000, except receipts that by law or the terms of a grant are restricted to another use.

Chapter 3. Distributions in Lieu of Property Tax Replacement and Homestead Credits

Sec. 1. Rates and charges imposed under this article shall be treated as ad valorem property taxes for the purpose of distributions under the following:

- (1) IC 6-1.1-21.
- (2) IC 6-3.5.
- (3) IC 6-5-10.
- (4) IC 6-5-11.
- (5) IC 6-5-12.
- (6) IC 6-6-5.



(7) Any other law that computes a distribution on the assessed value of the tangible property in a political subdivision or on the property tax levy imposed by the political subdivision.

Sec. 2. The state board of tax commissioners shall provide the information for the department of state revenue and county auditors to make the distributions described in section 1 of this chapter for police and fire services.

Sec. 3. Money received under section 1 of this chapter shall be used to reduce the rates and charges imposed under IC 36-8.5-4.

Chapter 4. Rates and Charges

Sec. 1. A political subdivision may impose rates and charges on the owner of property in a political subdivision. If the political subdivision has entered into a contract to provide police and fire services outside the political subdivision, the political subdivision may impose rates and charges on an owner of property served under the contract.

Sec. 2. The rates and charges for police and fire services may be determined based on the following:

- (1) A flat charge for each lot, parcel of property, or building.
- (2) The amount of police and fire services used.
- (3) The relative police or fire risk, as determined by insurance ratings and other information available to the political subdivision.
- (4) Whether the political subdivision is required to purchase or lease special facilities or equipment to deliver police and fire services to the property.
- (5) A combination of these or other factors that the political subdivision determines is necessary to establish just and equitable rates and charges.

Sec. 3. The rates and charges for police and fire services do not have to be uniform throughout the political subdivision or for all users. The board may exercise reasonable discretion in:

- (1) adopting different schedules of rates and charges; or
- (2) making classifications in schedules of rates and charges:
 - (A) based upon variations in the costs of furnishing the services, including capital expenditures required, to various classes of users or to various locations in the political subdivision; or
 - (B) where there are variations in the number of users in various locations in the political subdivision.

Sec. 4. If services will not be provided until after a capital improvement is completed, a political subdivision may bill and



1 collect rates and charges for the services to be provided after the
 2 contract for construction of the capital improvement has been let
 3 and actual work commenced in an amount sufficient to meet the
 4 interest on the revenue bonds and other expenses payable before
 5 the completion of the capital improvement.

6 Sec. 5. Unless the political subdivision finds and directs
 7 otherwise, police and fire services are considered to benefit every:

- 8 (1) lot;
- 9 (2) parcel of land; or
- 10 (3) building;

11 in the political subdivision. The rates or charges shall be billed and
 12 collected accordingly.

13 Sec. 6. (a) The legislative body of a political subdivision shall, by
 14 ordinance, establish just and equitable rates or charges for the use
 15 of and the police and fire services provided by the political
 16 subdivision. The rates or charges are payable by the owner of each
 17 lot, parcel of land, or building that:

- 18 (1) is in the political subdivision; or
- 19 (2) in any way uses or is served by the political subdivision.

20 (b) The board may periodically change and readjust the rates or
 21 charges as provided in this article.

22 Sec. 7. (a) Just and equitable rates and charges are those that
 23 produce sufficient revenue to:

- 24 (1) pay all expenses incident to the delivery of police and fire
 25 services;
- 26 (2) provide a sinking fund for the liquidation of bonds or
 27 other evidence of indebtedness and reserves against default in
 28 the payment of interest and principal of bonds; and
- 29 (3) provide adequate money to be used as working capital and
 30 money for making improvements, additions, extensions, and
 31 replacements.

32 (b) Rates and charges too low to meet the financial requirements
 33 described in subsection (a) are unlawful. The initial rates and
 34 charges established after notice and hearing under this article are
 35 prima facie just and equitable.

36 Sec. 8. The initial rates or charges may be established only after
 37 a public hearing at which all:

- 38 (1) the property owners to be served by the political
 39 subdivision; and
- 40 (2) others interested;

41 have an opportunity to be heard concerning the proposed rates or
 42 charges.



1 **Sec. 9.** After introduction of the ordinance initially fixing rates
 2 or charges but before the ordinance is finally adopted, notice of the
 3 hearing setting forth the proposed schedule of the rates or charges
 4 must be given by publication one (1) time each week for two (2)
 5 weeks in a newspaper of general circulation in the political
 6 subdivision. The last publication must be at least seven (7) days
 7 before the date fixed in the notice for the hearing. The hearing may
 8 be adjourned as necessary.

9 **Sec. 10.** (a) The ordinance establishing the initial rates or
 10 charges, either as:

- 11 (1) originally introduced; or
- 12 (2) modified and amended;

13 shall be passed and put into effect after the hearing.

14 (b) A copy of the schedule of the rates and charges established
 15 must be:

- 16 (1) kept on file in the principal office of the political
 17 subdivision; and
- 18 (2) open to public inspection.

19 **Sec. 11.** (a) The rates or charges established for a class of users
 20 of property served shall be extended to cover any additional
 21 premises served after the rates or charges are established that are
 22 in the same class without the necessity of hearing or notice.

23 (b) A change or readjustment of the rates or charges may be
 24 made in the same manner as the rates or charges were originally
 25 established.

26 **Chapter 5. Liens for Rates and Charges**

27 **Sec. 1.** The rates made, assessed, or established under this
 28 article against:

- 29 (1) a lot;
- 30 (2) a parcel of land; or
- 31 (3) a building;

32 in the political subdivision or served by the political subdivision is
 33 a lien against the lot, parcel of land, or building.

34 **Sec. 2.** Except as provided in sections 5 and 6 of this chapter, a
 35 lien attaches at the time of the recording of the list in the county
 36 recorder's office as provided in IC 36-2-11. The lien:

- 37 (1) is superior to and takes precedence over all other liens
 38 except the lien for taxes; and
- 39 (2) shall be enforced under this article.

40 **Sec. 3.** If rates or charges are not paid within the time fixed by
 41 the political subdivision, the rates or charges become delinquent
 42 and a penalty of ten percent (10%) of the amount of the rates or



charges attaches to the rates or charges. The political subdivision may recover:

- (1) the amount due;
- (2) the penalty; and
- (3) reasonable attorney's fees;

in a civil action in the name of the political subdivision.

Sec. 4. The rates or charges, together with the penalty, are collectible in the manner provided by this article.

Sec. 5. (a) A rate or charge is not enforceable as a lien against a subsequent owner of property unless the lien for the rate or charge was recorded with the county recorder before the conveyance to the subsequent owner.

(b) If the property is conveyed before the lien can be filed, the officer of the political subdivision who is charged with the collection of the rate or charge shall notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not less than fifteen (15) days after the date of the notice. If payment is not received not later than one hundred eighty (180) days after the date of the notice, the amount due may be expensed as a bad debt loss.

Sec. 6. (a) This section applies whenever the owner of the property has notified the political subdivision by certified mail with return receipt requested of the address to which the owner's notice is to be sent.

(b) A lien does not attach against a lot, parcel of land, or building occupied by someone other than the owner unless the officer of the political subdivision who is charged with the collection of rates or charges notifies the owner of the property after the rates or charges have become sixty (60) days delinquent.

Sec. 7. (a) The political subdivision shall release:

- (1) liens filed with the county recorder after the recorded date of conveyance of the property; and
- (2) delinquent fees incurred by the seller;

upon receipt of a verified demand in writing from the purchaser.

(b) The demand must state the following:

- (1) That the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner.
- (2) That the purchaser has not been paid by the seller for the delinquent fees.

Chapter 6. Enforcement of Delinquencies

Sec. 1. This chapter applies only to fees or penalties that have



1 been due and unpaid for at least ninety (90) days.

2 **Sec. 2.** The officer of the political subdivision who is charged
3 with the collection of the rates or charges shall enforce payment of
4 the rates or charges. The officer shall, not more than two (2) times
5 in a year, prepare a list of the delinquent rates or charges,
6 including the amount of the penalty, that are enforceable under
7 this chapter. The list must include the following:

8 (1) The name of each owner of each lot or parcel of real
9 property on which the rates or charges have become
10 delinquent.

11 (2) The description of the premises as shown by the records of
12 the office of the county auditor.

13 (3) The amount of the rates or charges, together with the
14 amount of the penalty.

15 **Sec. 3.** (a) The officer shall record a copy of the list in the office
16 of the county recorder.

17 (b) The county recorder shall charge a fee for recording the list
18 in accordance with the fee schedule established in IC 36-2-7-10.

19 (c) After recording the list, the officer shall mail to each
20 property owner on the list a notice stating that a lien against the
21 owner's property has been recorded.

22 (d) This subsection applies only to a county that does not contain
23 a consolidated city. A service charge of five dollars (\$5), which is
24 in addition to the recording fee charged under this section and
25 section 6 of this chapter, shall be added to each delinquent rate or
26 charge that is recorded.

27 **Sec. 4.** (a) This section applies only to a county containing a
28 consolidated city.

29 (b) Using the lists prepared and recorded under sections 2 and
30 3 of this chapter, the officer shall certify to the county auditor a list
31 of the liens that remain unpaid according to the following schedule:

32 (1) Liens recorded on or after August 1 of the preceding year
33 and before February 1 of the current year shall be certified
34 before March 1 of each year for collection in May of the same
35 year.

36 (2) Liens recorded on or after February 1 of the current year
37 and before August 1 of the current year shall be certified
38 before September 1 of each year for collection in November
39 of the same year.

40 (c) The county and the officers and employees of the county are
41 not liable for any material error in the information on the list.

42 **Sec. 5.** (a) This section applies only to a county that does not

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1 contain a consolidated city.

2 (b) Using the lists prepared and recorded under sections 2 and
3 of this chapter:

4 (1) after April 1 of the preceding year; and

5 (2) before April 1 of the current year;

6 the officer shall before June 1 of each year certify to the county
7 auditor a list of the liens that remain unpaid for collection in the
8 next November.

9 (c) The county and the officers and employees of the county are
10 not liable for any material error in the information on the list.

11 Sec. 6. (a) The officer shall release a recorded lien when the:

12 (1) delinquent rates or charges;

13 (2) penalties;

14 (3) service charges; and

15 (4) recording fees;

16 have been fully paid.

17 (b) The county recorder shall charge a fee for releasing the lien
18 in accordance with IC 36-2-7-10.

19 Sec. 7. (a) This subsection applies to a county that does not
20 contain a consolidated city. On receipt of the list under section 5 of
21 this chapter, the county auditor shall add a fifteen dollar (\$15)
22 certification fee for each lot or parcel of real property on which
23 rates or charges are delinquent. The certification fee is in addition
24 to all other fees and charges. The county auditor shall immediately
25 enter on the tax duplicate for the municipality the:

26 (1) delinquent rates or charges;

27 (2) penalties;

28 (3) service charges;

29 (4) recording fees; and

30 (5) certification fees;

31 that are due not later than the due date of the next November
32 installment of property taxes.

33 (b) This subsection applies to a county having a consolidated
34 city. On receipt of the list under section 4 of this chapter, the
35 county auditor shall enter on the tax duplicate the:

36 (1) delinquent fees;

37 (2) penalties;

38 (3) service charges; and

39 (4) recording fees;

40 that are due not later than the due date of the next installment of
41 property taxes.

42 (c) The county treasurer shall include any unpaid charges for

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the:

- (1) delinquent rate or charge;
- (2) penalty;
- (3) service charge;
- (4) recording fee; and
- (5) certification fee;

for each owner of each lot or parcel of property at the time the next cycle's property tax installment is billed.

Sec. 8. (a) This section does not apply to a county containing a consolidated city.

(b) After June 1 of each year, the officer may not collect or accept:

- (1) delinquent rates or charges;
- (2) penalties;
- (3) service charges;
- (4) recording fees; or
- (5) certification fees;

from property owners whose property has been certified to the county auditor.

Sec. 9. If a:

- (1) delinquent rate or charge;
- (2) penalty;
- (3) service charge;
- (4) recording fee; or
- (5) certification fee;

is not paid, the county treasurer shall collect the unpaid money in the same way that delinquent property taxes are collected.

Sec. 10. (a) At the time of each semiannual tax settlement, the county treasurer shall certify to the county auditor all:

- (1) rates or charges;
- (2) fees; and
- (3) penalties;

that have been collected.

(b) The county auditor shall:

- (1) deduct the service charges and certification fees collected by the county treasurer; and
- (2) pay to the officer the remaining fees and penalties due the political subdivision.

(c) The county treasurer shall:

- (1) retain the service charges and certification fees that have been collected; and
- (2) deposit the charges and fees in the county general fund.



1 **Sec. 11. (a) This section applies to a:**

- 2 (1) rate or charge;
3 (2) penalty; or
4 (3) service charge;

5 **that was not recorded before a recorded conveyance.**

6 **(b) The:**

- 7 (1) rate or charge;
8 (2) penalty; or
9 (3) service charge;

10 **shall be removed from the tax roll for a purchaser who, in the**
11 **manner prescribed by IC 36-8.5-5-7, files a verified demand with**
12 **the county auditor.**

13 **Chapter 7. Foreclosure of Liens**

14 **Sec. 1. A political subdivision may, as an additional or**
15 **alternative remedy, foreclose a lien established by this article as a**
16 **means of collection of rates or charges, including the penalty on the**
17 **rates or charges.**

18 **Sec. 2. (a) In all actions brought to foreclose the liens, the**
19 **political subdivision is entitled to recover the following:**

- 20 (1) The amount of the rates or charges.
21 (2) The penalty on the rates or charges.
22 (3) Reasonable attorney's fees.

23 **(b) The court shall order that the sale be made without relief**
24 **from valuation or appraisal statutes.**

25 **Sec. 3. Except as otherwise provided by this article, in all actions**
26 **to foreclose the liens:**

- 27 (1) the laws concerning municipal public improvement
28 assessments; and
29 (2) the rights, remedies, procedure, and relief granted the
30 parties to the action;

31 **apply.**

32 **SECTION 4. [EFFECTIVE JULY 1, 1999] IC 36-1.3 and**
33 **IC 36-8.5, both as added by this act, apply only to budget years**
34 **beginning after December 31, 1999.**

35 **SECTION 5. [EFFECTIVE JULY 1, 1999] (a) Not later than**
36 **January 2, 2000, the auditor of state shall transfer from the state**
37 **general fund to the state emergency reserve fund established by**
38 **IC 36-1.3-5-1, as added by this act, an amount equal to ten percent**
39 **(10%) of the appropriations made in 1998 for police and fire**
40 **services, as described in IC 36-8.5, as added by this act. The**
41 **auditor of state shall establish an account within the fund for each**
42 **political subdivision that appropriated money for police and fire**



1 services in 1998. The auditor of state shall allocate the money
2 transferred under this SECTION to the accounts in the fund in
3 proportion to the police and fire appropriations made by each
4 political subdivision.

5 (b) This SECTION expires December 31, 2001.

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